

By online form: [www.fundraisingregulator.org.uk/code-consultation-2024](http://www.fundraisingregulator.org.uk/code-consultation-2024)

1 November 2024

Dear Sir / Madam,

### **Fundraising Regulator: Code consultation 2024**

The Chartered Governance Institute is the professional body for governance and the qualifying and membership body for governance professionals across all sectors. Its purpose under Royal Charter is to lead effective governance and efficient administration of commerce, industry, and public affairs working with regulators and policymakers to champion high standards of governance and providing qualifications, training, and guidance. As a lifelong learning partner, the Institute helps governance professionals achieve their professional goals, providing recognition, community, and the voice of its membership.

One of nine divisions of the global Chartered Governance Institute, which was established 130 years ago, The Chartered Governance Institute UK & Ireland (the Institute) represents members working and studying in the UK and Ireland and many other countries and regions including the Caribbean, parts of Africa and the Middle East.

As the professional body that qualifies Chartered Secretaries and Chartered Governance Professionals, our members have a uniquely privileged role in organisations' governance arrangements, including an appropriate and compliant approach to fundraising. They are therefore well placed to understand the issues raised by this consultation. Our response focuses on the sections of the Code – and supporting documents – which relate most closely to issues of governance. In preparing our response we have consulted, amongst others, with our members. However, the views expressed in this response are not necessarily those of any individual members, nor of the charities they represent.

## **Section 1: Behaviour when fundraising**

The updates to this section of the Code are clear and accessible. The edits which have been made are mostly fairly minimal, and include changing 'donor' to 'potential or existing donor'. The Institute supports this change (as used throughout the Code), as it emphasises the importance of appropriate engagement throughout the donor lifecycle. It is also encouraging to see the addition of specific references to particular regulation and legislation (such as the Gambling Act).

## **Section 2: Responsibilities of those who govern charitable institutions**

This section has undergone significant changes, most of which the Institute supports. It sets out clear and reasonable expectations of trustees in terms of taking responsibility; sourcing legal or professional advice; following codes, guidance and regulation including reporting requirements; and assessing risks.

We would suggest that 2.1.4, on acting in the best interest of your charity, is moved up to become 2.1.2. This is because acting in the charity's best interests is one of the fundamental duties of trustees. The bullet points included in 2.1.4 are all individually very important too. We would suggest that the Code signposts to guidance on 'identifying and addressing conflicts of interest' at this stage. The Institute provides guidance both on [Managing conflicts of interest in a charity \(England & Wales\)](#) and a [Specimen conflict of interest policy, declaration form and register of interests for charity trustees](#).

Principles 2.2 on accepting, refusing and returning donations, and 2.3 on complaints and concerns about fundraising are clear and succinct. However, principle 2.5 on solicitation statements does not go far enough to provide clarity as to what information solicitation statements should contain. We would suggest adding in another point (to become 2.5.3) which captures a little more detail from some of the regulation which is linked to in this section to set out what needs to be included in solicitation statements. This information is included in section 7 of the Code under the subheading 'legal requirements for solicitation statements' – but it is possible that charities may not read the entirety of the Code every time they consult it, and so including a short summary of some of this information in section 2 would be beneficial.

Principle 2.6 on using funds is clear and sufficiently detailed. In the very last part of this section on legal requirements for using funds, we would suggest that where 'key legislation' has been listed, the Code references the relevant sections of that legislation. For example, rather than providing a link to the entirety of the Charities Act 2011, the list of references could point to particular sections of it.

## **Section 3: Processing personal data**

This section has also undergone major revisions. The large amount of signposting to legislation and external guidance is helpful and allows charities to clearly identify where particular legal or regulatory requirements arise from. This section is now significantly shorter than it was, which has a positive



impact on user-friendliness and readability. Throughout, there are short and direct instructions which tell charities what they ‘must’ or ‘must not’ do, which is particularly beneficial for a topic such as data protection which can become highly complex and technical. Under 3.14 on legitimate interest, we would suggest that the Code provide a definition for legitimate interest, as this term may not be common knowledge for all trustees or charity staff.

## **Section 7: Fundraising partnerships**

It is encouraging that this section covers important issues such as due diligence, third-party agreements and monitoring of third parties. Most of the edits made here have been to shorten the section and tighten up the language, as well as add in references to external guidance and legislation. In particular, the inclusion of the Charity Commission’s guidance on due diligence is helpful. Principle 7.2.3 which covers what information should be included in a third-party agreement should also include a reference to data handling.

## **Code Compliance Guides (CCGs): Supporting documents to the Fundraising Code**

### **CCG01 – Documenting decisions**

The Code Compliance Guides are very helpful resources and we would encourage the Fundraising Regulator to ensure that they are prominently featured on the website. We are pleased to see that they are linked to in the body of the Code at appropriate points. The first of these guides on documenting decisions relates very closely to the work of the Institute’s members as governance professionals.

We are pleased to see that this document refers to the Charity Commission’s guidance on decision-making, CC27 (which has recently been updated). We would also suggest that the document could link to guidance on effective minute taking – such as the Institute’s [Minute Taking](#). The final section of the guide, ‘Top 10 tips’ are a helpful summary of its content, and it may be worth moving those nearer the beginning of the guide.

### **CCG02 – Due diligence**

This guide covers a wide range of matters relating to due diligence, including fraud and anti-money laundering, working with fundraising partners, and safeguarding checks for fundraisers. As this is a wide array of topics, it may be helpful to include a brief contents table at the top of the document, to make it clear for readers what information will be covered. The contents of this guide are thorough and easily accessible.



## CCG03 – Monitoring

Effective monitoring of fundraising activities is crucial for charities, and it is helpful that this guide lists some options of different methods which can be used to undertake monitoring. The section on shared values is particularly important, and it is encouraging that this is included. In the section on ‘agreement between you and your fundraising partner’, there are some suggestions that feel a little repetitive of the main content of the Code – although this is not in itself a problem, it may be helpful to link to the relevant part of the Code itself.

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If you would like to discuss any of the above comments in further detail, please do feel free to contact me.

Yours faithfully,

**Emily Ford**

Policy Adviser

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